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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/683,939

10/10/2003

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066-0003

3891

67413

7590

09/01/2009

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EXAMINER

CHORNESKY, ADAM B

ART UNIT

PAPER NUMBER

3688

MAIL DATE

DELIVERY MODE

09/01/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/683,939	<b>Applicant(s)</b> MAGGIO, FRANK S.	
	<b>Examiner</b> ADAM CHORNESKY	<b>Art Unit</b> 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 79-106 and 123-131 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 79-106 and 123-131 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The following is a Final Office action in response to the Amendment filed on September 18, 2008. All original claims 1-78 are cancelled. Claims 79-142 have been added. The Applicant has elected without traverse Group I consisting of claims 79-106 and 123-131 from the restriction sent January 29, 2009, cancelled original claims 1-78, and not elected claims 107-122 and 132-142. Claims 79-106 and 123-131 are currently pending.

### ***Double Patenting***

2. The non-statutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 89 of instant Application Serial No. 10/683939 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of co-pending Application Serial No. 10/976149. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

Claim 89 of Application Serial No. 10/683939 substantially recites the limitations of claim 1 of Application Serial No. 10/976149. The claim merely omits the underlined limitations of claims 1 of Application Serial No. 10/976149, and replaces them with the bolded limitations as shown in comparison table 1 below.

Application Serial NO. 10/976149 Claim 1	Application Serial No. 10/683939 Claim 89
<p>1. A handheld remote control device that interacts with <u>written content</u>, comprising:</p> <ul style="list-style-type: none"><li>a broadcast device controller that controls operation of one or more devices that receive signals broadcast by one or more broadcast networks;</li><li>a receiver that receives a query <u>concerning a selected portion of written content from a client transmitter through a network separate from the one or more broadcast networks, the written content concerning at least one of an advertisement, a product and a service;</u></li><li>a display that presents the received query to a recipient of the <u>written content</u>;</li><li>a keypad operative by the recipient to input a response to the query; and</li><li>a transmitter that transmits the response to a client receiver <u>for processing</u> through the network separate from the broadcast network, wherein the one or more broadcast networks are at least one of a television network, cable television network, satellite television network, radio network, and satellite radio network.</li></ul>	<p>89. A handheld remote control device that interacts with <b>broadcast content and also controls operation of one or more devices that receive signals broadcast by one or more broadcast networks</b>, comprising:</p> <ul style="list-style-type: none"><li>a receiver that receives a query <b>from a client transmitter through a network separate from the one or more broadcast networks, wherein the query concerns a question about a selected portion of the broadcast content;</b></li><li>a display that presents the received query to a recipient of the <b>broadcast content</b>;</li><li>a keypad operative by the recipient to input a response to the query <b>into the query-response device;</b> and</li><li>a transmitter that transmits a response <b>to the query</b> to a client receiver <b>that processes the response</b> through the network separate from the <b>one or more</b> broadcast networks, wherein the one or more broadcast networks are at least one of a television network, cable television network, satellite television network, radio network, and satellite radio network.</li></ul>

comparison Table 1

It would have been obvious to one of ordinary skill in the art of marketing at the time of the invention to modify the cited steps as indicated in claim 1 of Application NO. 10/976149 since the omission and/or addition of the cited limitations would have not changed the method according to which the handheld remote control device interacts with content queries, the client responses, or the interactions with the broadcast networks. Specifically, the ordinary skilled

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artisan would have been motivated to modify claim 1 of co-pending Application Serial NO. 10/976149 by replacing the underlined portions with the bolded limitations in claim 89 of Application Serial No. 10/683939. The cited substitute elements in claim 89 of Application Serial No. 10/683939 would have not in any way interfered with the functionality of the steps previously claimed in co-pending Application 10/976149, which would have continued to perform the same function of receiving a query, displaying the query to a recipient, providing a keypad for the recipient to respond to the query, and transmitting the response for processing by one or more broadcast networks.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 79-81, 83, 84, 86-93, 95, 97-100, 103, 105, 106, 123-126 and 129-131 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darbee et al. (US Pat 6130726 A) in view of Matsui et al. (US Pat 6784872 B1).

Claims 79, 89, 97 and 123: Darbee discloses a handheld remote control device that interacts with broadcast content and controls the operation of one or more devices that receive signals broadcast by one or more broadcast networks and tunes to station channels in response to a remote signal from a client computer (*Abstract* via a remote control for operating a consumer

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electronic device; the device comprising a visual display, keyboard, at least one of an IR or RF receiver circuit, and at least one of an IR or RF transmitter circuit coupled to the microprocessor for causing to be displayed a program guide, advertising, and/or other content);

a channel control transmitter, tune receiver, remote control transmitter that processes responses to a query to a client receiver through a network separate from one or more broadcast networks (col. 6, line 50 through col. 7, line 30 and Figs. 1 and 2 via a remote control device 10 may include on a top panel 12 thereof a LCD visual display 14 and a keyboard 15 including a volume Up and Down key 16, a channel Up and Down key 18, an EZ navigator, EZ NAV, key 20, an EZ information, EZ Info, key 22, an EZ Guide key 24 and an EZ Menu key 25, among others, a second set of hot-keys for activating and controlling set-top or cable box features, an Info key for accessing content broadcast by a local cable company, a Menu key for accessing a television or cable host menu, and a Guide key for accessing programming guide information broadcast by a cable company or other host network; electrical circuitry 26 in combination with other components including IR transmitting and receiving circuits 34 and 35, and a radio frequency receiver or transceiver circuit 48);

but Darbee does not disclose an interactive receiver that receives a query and/or supplemental query from the client transmitter, a question portion broadcast content, and an output device that presents supplemental query to the recipient;

Matsui teaches in *Abstract* a bidirectional remote control system composed of an electronic appliance and a remote control. The electronic appliance is provided with a display information storage section for storing therein display information for displaying buttons, icons or the like necessary to control the electronic appliance itself, and a transmitting section for

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transmitting display information stored in the display information storage section to the remote control.

Therefore, from the teaching of Matsui it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the program guide on a remote control display of Darbee to include the bidirectional remote control system of Matsui in order to provide a bidirectional remote control system which allows an electronic appliance to be operated even without previously registering information about the electronic appliance on the remote control side, by utilizing information transmitted from the electronic appliance side, and to provide a bidirectional remote control system which allows the electronic appliance side control to be implemented without depending on the display area of the remote control (*Abstract*).

Darbee also discloses that the output device is a display that presents a query to the recipient of broadcast content (*Abstract* via a remote control including a visual display and keyboard that when actuated cause to be displayed on the visual display a program guide, advertising and/or other content contained in a data set received by the receiver);

wherein the one or more broadcast networks are at least one of a television network, cable television network, satellite television network, radio network, and satellite radio network (col. 4, lines 19-32 via while cable, satellite, or broadcast television signals generally will provide the source for transporting information to the remote control (using, for example, receiving circuitry in the set-top box or the television itself, along with an IR or RF wireless link to the remote control), those broadcast signals need not provide in all instances the signal source for the remote control; for example, in some embodiments of the present invention, traditional

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broadcast sources such as cable, satellite and network broadcast channels may be bypassed and alternative data links to the remote control may be provided; such links may include, for example, paging networks, FM SCA data links, modem links and/or other data links, including wireless and non-wireless links to the Internet);

wherein the input device comprises a response keypad (col. 4, lines 5-19 via methods for identifying a remote control user by prompting a user to input personal identification information into the remote control device using, for example, a keypad provided on the face of the remote control);

a processor that generates a channel control signal comprising instructions to tune a broadcast receiver to the station channel; and a channel control transmitter that transmits the channel control signal at a time corresponding to the transmitted broadcasting time, wherein the broadcast receiver shows the broadcast content on the station channel in response to the channel control signal (col. 20, lines 50-61 and Figs. 19-23 via various channel guides and alternate guide formats that can be associated with MSO soft keys, that may force tune an associated set-top box (not shown) or television (not shown) directly to advertised channels and, in embodiments where a personal computer, web computer or web browser is linked to the remote control unit 10, to advertised Internet sites or Web pages).

Claims 80 and 90: Darbee and Matsui correspondingly disclose all the elements of claims 79 and 89, and Darbee further discloses wherein the output device presents the query based on timing information that indicates a broadcast time of the broadcast content (col. 3, lines 11-30 via the remote control can act as a coffee-table billboard, touting pay-per-view events, products,



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services, coupon offers or any other advertising offers that traditionally appear in a printed program guide).

Claims 81, 91, 103 and 129: Darbee and Matsui correspondingly disclose all the elements of claims 79, 89, 99 and 126, and Darbee further discloses wherein the query is based on demographics of a particular recipient operating the handheld remote control device (col. 2, lines 33-42 via an intelligent remote control device provided with two-way communication with the computer systems of content providers providing the possibility of acquiring and analyzing data regarding program viewing habits of a user, after which, it being possible to provide the user with programming and/or advertising content that is tailored to the user's interests or demographic profile; and col. 3, line 58 through col. 4, line 3 via the remote control stores only a subset of available program guide and/or advertising information limited to specific channels, specific areas of user interest, specific genres of programming, or specific times).

Claims 83, 84, 92, 93, 105, 106, 125, 130 and 131: Darbee and Matsui correspondingly disclose all the elements of claims 79, 89, 97, 123 and 126, and Darbee further discloses wherein the broadcast content comprises an advertisement, and the selected portion of the broadcast content comprises a selected portion of the advertisement; and wherein the broadcast content comprises a plurality of advertisements, and the selected portion of the broadcast content comprises a selected portion of at least one of the advertisements; and wherein the broadcast content comprises one of advertising and breaking news (col. 4, lines 34-41 via the use of compressed data transmissions to deliver programming guide, advertising and/or other data to a

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remote control device; and col. 8, lines 57-67 via a program guide and advertising data signal may be combined with television channel signals on a coaxial cable to form a composite signal; further, this may be done in such a manner that the program guide and advertising data occupies a frequency band between a pair of frequency bands assigned to two of the television channels; the composite signal may then be broadcast by a content provider, such as a cable company or satellite network, and delivered to a set-top box (not shown) or television tuner provided, for example, in a viewer's home).

Claim 86: Darbee and Matsui disclose all the elements of claim 79, and Darbee further discloses wherein the output device comprises a display (col. 3, lines 11-30 via a remote control in accordance with the present invention is that, in contrast to a typical television display, the display on the remote control can always be on, meaning that the remote control can act as a coffee-table billboard, touting pay-per-view events, products, services, coupon offers or any other advertising offers that traditionally appear in a printed program guide).

Claims 87 and 98: Darbee and Matsui correspondingly disclose all the elements of claims 79 and 97, and Darbee further discloses wherein the input device comprises a response keypad (col. 4, lines 5-19 via methods for identifying a remote control user by prompting a user to input personal identification information into the remote control device using, for example, a keypad provided on the face of the remote control).

Claim 88: Darbee and Matsui disclose all the elements of claim 79, and Darbee further discloses wherein a client computer communicates the query to the client transmitter and receives the response from the client receiver (col. 2, lines 33-42 via an intelligent remote control device provided with two-way communication with the computer systems of content providers providing the possibility of acquiring and analyzing data regarding program viewing habits of a user, after which, it being possible to provide the user with programming and/or advertising content that is tailored to the user's interests or demographic profile).

Claim 95: Darbee and Matsui disclose all the elements of claim 89, and Darbee further discloses the invention further comprising: a channel control transmitter operative to transmit a channel control signal to tune a broadcast receiver to a station channel upon which the broadcast content is presented (col. 6, line 50 through col. 7, line 30 and Figs. 1 and 2 via a remote control device 10 may include on a top panel 12 thereof a LCD visual display 14 and a keyboard 15 including a volume Up and Down key 16, a channel Up and Down key 18, an EZ navigator, EZ NAV, key 20, an EZ information, EZ Info, key 22, an EZ Guide key 24 and an EZ Menu key 25, among others, a second set of hot-keys for activating and controlling set-top or cable box features, an Info key for accessing content broadcast by a local cable company, a Menu key for accessing a television or cable host menu, and a Guide key for accessing programming guide information broadcast by a cable company or other host network; electrical circuitry 26 in combination with other components including IR transmitting and receiving circuits 34 and 35, and a radio frequency receiver or transceiver circuit 48).

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Claim 99: Darbee and Matsui correspondingly disclose all the elements of claims 97 and Matsui further discloses the invention further comprising: an interactive receiver that receives a supplemental query from a client computer, wherein the supplemental query concerns a question about a selected portion of the advertising content; and an output device that presents the supplemental query to the recipient.

Matsui teaches in *Abstract* a bidirectional remote control system composed of an electronic appliance and a remote control. The electronic appliance is provided with a display information storage section for storing therein display information for displaying buttons, icons or the like necessary to control the electronic appliance itself, and a transmitting section for transmitting display information stored in the display information storage section to the remote control.

Therefore, from the teaching of Matsui it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the program guide on a remote control display of Darbee to include the bidirectional remote control system of Matsui in order to provide a bidirectional remote control system which allows an electronic appliance to be operated even without previously registering information about the electronic appliance on the remote control side, by utilizing information transmitted from the electronic appliance side, and to provide a bidirectional remote control system which allows the electronic appliance side control to be implemented without depending on the display area of the remote control (*Abstract*).

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Claim 100: Darbee and Matsui disclose all the elements of claim 99, and Darbee further discloses wherein the output device comprises a display (*Abstract* via a remote control including a visual display and keyboard that when actuated cause to be displayed on the visual display a program guide, advertising and/or other content contained in a data set received by the receiver);

Claim 124: Darbee and Matsui disclose all the elements of claim 123, and Darbee further discloses wherein the broadcast content comprises pre-selected content (*Abstract* via a remote control having program guide software stored in memory and executable by a microprocessor for causing to be displayed on the visual display, upon actuation of one or more of the keys, a program guide, advertising and/or other content contained in a data set received by the receiver; col. 17, lines 18-33 via a master database of all programs delivered throughout the US by stations/networks that is gathered and maintained and updated daily; and col. 20, lines 50-61 and Figs. 19-23 via various channel guides and alternate guide formats that can be associated with MSO soft keys, that may force tune an associated set-top box (not shown) or television (not shown) directly to advertised channels and, in embodiments where a personal computer, web computer or web browser is linked to the remote control unit 10, to advertised Internet sites or Web pages; and col. 17, lines 18-32 via a master database of all programs delivered throughout the U.S. by stations/networks is gathered and maintained and updated daily).

Claim 126: Darbee and Matsui disclose all the elements of claim 123, and Darbee further discloses wherein the interactive receiver receives a query about a selected portion of the broadcast content, and the handheld remote control device further comprises: a display that

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presents the received query; a response keypad operative by a particular recipient of the plurality of recipients to input a response to the query; and an interactive transmitter that transmits the input response to the client receiver through a network separate from the one or more broadcast networks, wherein each response comprising a correct reply to the query verifies that the responding recipient has been exposed to at least the selected portion of the broadcast content (*Abstract* via a remote control for operating a consumer electronic device; program guide software is stored in the memory and executable by the microprocessor for causing to be displayed on the visual display, upon actuation of one or more of the keys, a program guide, advertising and/or other content contained in a data set received by the receiver; and col. 6, line 50 through col. 7, line 30 and Figs. 1 and 2 via a remote control device 10 may include on a top panel 12 thereof a LCD visual display 14 and a keyboard 15 including a volume Up and Down key 16, a channel Up and Down key 18, an EZ navigator, EZ NAV, key 20, an EZ information, EZ Info, key 22, an EZ Guide key 24 and an EZ Menu key 25, among others, a second set of hot-keys for activating and controlling set-top or cable box features, an Info key for accessing content broadcast by a local cable company, a Menu key for accessing a television or cable host menu, and a Guide key for accessing programming guide information broadcast by a cable company or other host network; electrical circuitry 26 in combination with other components including IR transmitting and receiving circuits 34 and 35, and a radio frequency receiver or transceiver circuit 48).

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5. Claims 82, 96 and 104 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darbee et al. (US Pat 6130726 A) in view of Matsui et al. (US Pat 6784872 B1) and Hoffberg (US 6850252 B1).

Claims 82, 96 and 104: Darbee and Matsui correspondingly disclose all the elements of claims 79, 95 and 97, but do not disclose wherein the channel control transmitter automatically transmits the channel control signal in response to a synchronization signal indicating the station channel upon which the broadcast content.

Hoffberg teaches in col. 49, lines 18-32 a time allocation controller that allocates time available in a particular advertising region in a display device of a remote computer between at least two advertisements as a function of one of a desired user frequency, a desired time frequency, or a desired geometry, for each of the at least two advertisements and data communication controller, coupled to the time allocation controller, that delivers the at least two advertisements to said remote computer for display in the advertising region according to the allocating of the time.

Therefore, from the teaching of Hoffberg it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the program guide on a remote control display of Darbee and the bidirectional remote control system of Matsui to include the synchronized advertisement display system of Hoffberg in order to provide an adaptive user interface which changes in response to the context, past history and status of the system (col. 110, lines 54-59).

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6. Claim 85 and 94 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darbee et al. (US Pat 6130726 A) in view of Matsui et al. (US Pat 6784872 B1) and Makhlouf (US 6850252 B1).

Claims 85 and 94: Darbee and Matsui correspondingly disclose all the elements of claims 79 and 89, but do not disclose the invention further comprising: a microphone that receives the recipient's voice from the recipient and communicates the recipient's voice to the interactive transmitter, wherein the interactive transmitter transmits the recipient voice to the client receiver for communication to the client computer; and a speaker, wherein the interactive receiver receives a transmitted sender's voice from the client computer and communicates the sender's voice via the speaker; and

Darbee discloses wherein a client computer communicates the query to the client transmitter and receives the response from the client receiver (col. 4, lines 48-57 via a remote control in accordance with the present invention may be configured either as a dedicated unit capable of controlling only one host device, or as a universal remote control capable of controlling multiple devices; such devices may include traditional home entertainment system components, such as television sets, tape decks, CD players, laser disc players and stereo tuners, and/or alternative content sources such as personal computers, web computers or web browser applications).

Makhlouf teaches in col. 13, lines 9-41 and Fig. 7 that when the phone key 124h is activated, the universal multimedia system 10 may serve as a telephone. The remote control 50 may serve as part of the telephone by activating a telephone 27 or by activating a telephone



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program in the computer system 16. The user may initially activate or answer the telephone mode of operation by selecting the "talk" button 133. Particularly, the remote control 50 has a microphone 119 which communicates voice communication from a user of the remote control 50 to the home broadcasting unit 36. The home broadcasting unit then transfers the voice communication to a telephone unit or computer system. By placing a microphone 119 on the remote control unit, the remote control system is able to operate as a speaker phone. Makhlouf further teaches in *Abstract* a remote control unit with a set of function keys operable to select one of a plurality of modes of operation of a computer system. The function keys may be operable to select a television mode, network communication mode or a video cassette recorder mode.

Therefore, from the teaching of Makhlouf it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the program guide on a remote control display and universal remote control of Darbee and the bidirectional remote control system of Matsui to include the combination remote control and speaker phone and computer system of Makhlouf in order to provide a method and system which enables wireless communication and control of various media in an integrated system (col. 3, lines 15-29).

7. Claims 101, 102, 127 and 128 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darbee et al. (US Pat 6130726 A) in view of Matsui et al. (US Pat 6784872 B1) and Houghton (US PgPub 20020124247 A1).

Claim 101: Darbee and Matsui disclose all the elements of claim 99, but do not disclose wherein the supplemental query comprises the primary query.

Houghton teaches on pg. 1, pars. 7-9 that interactive television viewers may be polled by preparing a set of polling requests that each ask an interactive television viewer to select an element from a group of two or more elements, connecting to one or more set top systems of one or more interactive television viewers, sending the set of polling requests to the set top systems, receiving responses to the set of polling requests from one or more interactive television viewers, evaluating the responses, and preparing a new polling request including two or more elements selected based on the evaluation of the responses to the set of polling requests. Particular content may be displayed to the interactive television viewers based on the evaluation of the responses.

Therefore, from the teaching of Houghton it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the program guide on a remote control display and universal remote control of Darbee and the bidirectional remote control system of Matsui to include the polling of interactive television viewers of Houghton in order to provide systems and techniques for polling interactive television viewers (*Abstract*).

Claims 102 and 128: Darbee and Matsui correspondingly disclose all the elements of claims 99 and 126, but do not disclose wherein the output device comprises a display that presents the supplemental query based on timing information that indicates a broadcast time of the broadcast content.

Houghton teaches on pg. 10, par. 112 the use of off screen, or side-screen displays. For example, when a question appears, the display may be split in half, with half of the screen being used to display the polling requests and the other screen being used to display a television program. Houghton further teaches on pg. 10, par. 105 that implementations may include

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evaluating the responses after a time limit has elapsed. For example, all ballots may be tallied after two minutes have elapsed. The period against which the time limit is applied may begin when the ballot is initially displayed. The time limit may be common to all interactive television viewers. For example, all interactive television viewers may be polled in the opening sequence of a news program to determine which features will be broadcast.

Therefore, from the teaching of Houghton it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the program guide on a remote control display and universal remote control of Darbee and the bidirectional remote control system of Matsui to include the polling of interactive television viewers and the timing polling to coincide with the opening sequence of a news program of Houghton in order to provide systems and techniques for polling interactive television viewers (*Abstract*).

Claim 127: Darbee and Matsui disclose all the elements of claim 126, but do not disclose wherein a data storage center receives the response from the client computer, determines whether the response comprises a correct reply to the query, and awards a prize to at least one of the plurality of recipients that inputs a response that includes the correct reply to the query.

Houghton teaches on pgs. 2-3, par. 30 and Fig. 1 a host system 110 that may include one or more general-purpose computers programmed to communicate with each other and/or the client system 105. Host devices 135 are general-purpose computers capable of responding to and executing instructions in a defined manner. Other examples include a special-purpose computer, a workstation, a server, a device, a component, other equipment or some combination thereof capable of responding to and executing instructions. The host controller 140 may be embodied

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permanently or temporarily in any type of machine, component, equipment, storage medium, or propagated signal capable of providing instructions to the host device 135. Houghton further teaches on pg. 4, par. 41 and Fig. 2 a web-based TV system 200 and a set top box 205 that may include a number of input/output (I/O) interfaces 370, such as a modem 371, a high-speed multimedia interface 372, a serial interface 373, a common interface 374, a TV and VCR interface 375, and wireless interfaces 376 to devices including a remote control 380 and a wireless keyboard 381.

Therefore, from the teaching of Houghton it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the program guide on a remote control display and universal remote control of Darbee and the bidirectional remote control system of Matsui to include the host system 110 and web-based TV system 200 the of Houghton in order to provide systems and techniques for polling interactive television viewers (*Abstract*).

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 79, 89, 97, 107, 112, 118, 123, 132 and 138 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure includes:

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- a. Wachob (US Pat 5155591 A) teaches a method and apparatus for providing demographically targeted television commercials.
- b. Hayes et al. (US Pat 6781518 B1) teaches the digital interconnect of entertainment equipment.
- c. Johns et al. (US Pat 6157319 A) teaches a universal remote control system with device activated setup.
- d. Yuen (US Pat 5812931 A) teaches a two-way interactive television system incorporating pager transmitter and receiver for conducting messaging with information provider.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to ADAM CHORNESKY whose telephone number is (571)270-5103. The examiner can normally be reached on Monday - Thursday 7:30 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Weinhardt can be reached on 571-272-6633. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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3688

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August 26, 2009